

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

NORTEK AIR SOLUTIONS, LLC,
 Plaintiff,
 v.
 DMG CORPORATION, et al.,
 Defendants.

Case No. 14-cv-02919-BLF

ORDER RE SEALING MOTIONS

[Re: ECF 367, 378, 380, 385, 387, 394, 396]

This order specifically addresses parties' administrative motions to file under seal portions of their briefing and exhibits in relation to the parties' motions for judgement as a matter of law and Defendants' motion for fees and bill of costs. For the reasons stated below, the motions are GRANTED.

I. LEGAL STANDARD

"Historically, courts have recognized a 'general right to inspect and copy public records and documents, including judicial records and documents.'" *Kamakana v. City and Cnty. of Honolulu*, 447 F.3d 1172, 1178 (9th Cir. 2006) (quoting *Nixon v. Warner Commc'ns, Inc.*, 435 U.S. 589, 597 & n.7 (1978)). Consequently, access to motions and their attachments that are "more than tangentially related to the merits of a case" may be sealed only upon a showing of "compelling reasons" for sealing. *Ctr. for Auto Safety v. Chrysler Grp., LLC*, 809 F.3d 1092, 1101-02 (9th Cir. 2016). Filings that are only tangentially related to the merits may be sealed upon a lesser showing of "good cause." *Id.* at 1097. In addition, sealing motions filed in this district must be "narrowly tailored to seek sealing only of sealable material." Civil L.R. 79-5(b).

A party moving to seal a document in whole or in part must file a declaration establishing that the identified material is “sealable.” Civ. L.R. 79-5(d)(1)(A). “Reference to a stipulation or protective order that allows a party to designate certain documents as confidential is not sufficient to establish that a document, or portions thereof, are sealable.” *Id.*

II. DISCUSSION

The Court has reviewed the parties’ sealing motions and respective declarations in support thereof. The Court finds the parties have articulated compelling reasons to seal certain portions of the submitted documents in relation to their motions for judgment as a matter of law and good cause to seal certain portions of the submitted documents in relation to the motion for fees and bill of cost. The proposed redactions are also narrowly tailored. The Court’s rulings on the sealing requests are set forth in the tables below:

A. ECF 367

Identification of Documents to be Sealed	Description of Documents	Court’s Order
Defendants’ motion for fees	Plaintiff has not filed a declaration in support of sealing the highlighted portions at 1:23-24; 2:1-2 (graphic), 3, 10, 17; 9:18, 19, 20, 21, 25-26; and 9:26-10:1.	DENIED.
Declaration of Brandon Brown In Support of Defendants’ Bill of Costs (“Brown Decl.”)	Highlighted portions on page 4 contain private information of witnesses.	GRANTED as to highlighted portions on page 4.
Exhibit A to the Brown Decl. (Deposition Costs)	Highlighted portions on pages 2-19, 24-25, and 30-33 contain confidential taxpayer information.	GRANTED as to highlighted portions.
Exhibit C to the Brown Decl. (Witness Fees)	Highlighted portions on pages 5, 7, 10, 12, 15, and 17 contain private information of witnesses.	GRANTED as to highlighted portions.
Exhibit D to the Brown Decl. (Trial Graphics Costs)	Highlighted portions on pages 3 and 7 contain private information of third-parties.	GRANTED as to highlighted portions.
Exhibit E to the Brown Decl. (Electronic Discovery Costs)	Highlighted portions on pages 2-6 contain private information of third-parties.	GRANTED as to highlighted portions.
Exhibit F to the Brown Decl.	Highlighted portions on pages	GRANTED as to highlighted

(Trial Printing Costs)	2-5 contain private information of third-parties.	portions.
Exhibit G to the Brown Decl. (Special Master Costs)	Highlighted portions on pages 3, 5, 7, and 8 contain private information of third-party Special Master.	GRANTED as to highlighted portions.

B. ECF 378

Identification of Documents to be Sealed	Description of Documents	Court's Order
Plaintiff's motion for judgment as a matter of law and motion for new trial	Highlighted portion at 16:2-4 (beginning with "And" and ending with "right?") contains Plaintiff's confidential business information and competitive analysis.	GRANTED.
Plaintiff's motion for judgment as a matter of law and motion for new trial	Defendant does not seek to seal highlighted portion at 16:12-20 (beginning with "I" and ending with "litigation").	DENIED.

C. ECF 380

Identification of Documents to be Sealed	Description of Documents	Court's Order
Exhibit A to the Declaration of Brandon Brown in support of Defendants' renewed motion for judgment as a matter of law ("Brown Decl.") (DTX-1069)	Plaintiff has not filed a declaration in support of sealing this exhibit.	DENIED.
Exhibit B to the Brown Decl.	Plaintiff has not filed a declaration in support of sealing this exhibit.	DENIED.

D. ECF 385

Identification of Documents to be Sealed	Description of Documents	Court's Order
Exhibit C to the Declaration of Brandon Brown in support of amended bill of costs ("Brown Decl.") (Witness Fees)	Highlighted portions on pages 5, 7, 10, 12, 15, and 17 contain private information of witnesses.	GRANTED.
Exhibit D to the Brown Decl. (Trial Graphics Costs)	Highlighted portions on pages 3 and 7 contain private information of third-parties.	GRANTED.
Exhibit G to the Brown Decl. (Special Master Costs)	Highlighted portions on pages 3, 5, 7, and 8 contain private information of third-party Special Master.	GRANTED.

E. ECF 387

Identification of Documents to be Sealed	Description of Documents	Court's Order
Plaintiff's opposition to Defendants' motion for fees	Highlighted portion at 8:17-18 (beginning with "prior" and ending with "systems") contain confidential and sensitive licensing information.	GRANTED.
Plaintiff's opposition to Defendants' motion for fees	Defendant has not filed a declaration in support of sealing the first four words of line 15 on page 9.	DENIED.

F. ECF 394

Identification of Documents to be Sealed	Description of Documents	Court's Order
Exhibit 8 to the Declaration of Brandon Brown in support of Defendants' opposition to Plaintiff's motion for judgment as a matter of law ("Brown Decl.")	Plaintiff has not filed a declaration in support of sealing this exhibit.	DENIED.
Exhibit 9 to the Brown Decl.	Plaintiff has not filed a declaration in support of sealing this exhibit.	DENIED.
Exhibit 10 to the Brown Decl.	Plaintiff has not filed a declaration in support of sealing this exhibit.	DENIED.
Exhibit 15 to the Brown Decl.	Plaintiff has not filed a declaration in support of sealing this exhibit.	DENIED.

G. ECF 396

Identification of Documents to be Sealed	Description of Documents	Court's Order
Exhibit 2 to the Declaration of Brandon Brown in support of Defendants' reply in support of Defendants' motion for fees	Plaintiff has not filed a declaration in support of sealing this exhibit.	DENIED.

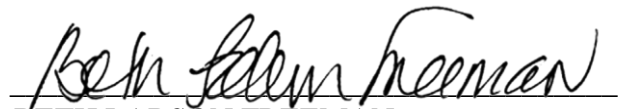
III. ORDER

For the foregoing reasons, the sealing motions at ECF 367, 378, 380, 385, 387, 394, 396 are GRANTED IN PART and DENIED IN PART. Under Civil Local Rule 79-5(e)(2), for any request that has been denied because the party designating a document as confidential or subject to

1 a protective order has not provided sufficient reasons to seal, the submitting party must file the
2 unredacted (or lesser redacted) documents into the public record no earlier than 4 days and no later
3 than 10 days form the filing of this order.

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6 **IT IS SO ORDERED.**

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8 Dated: October 24, 2016

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10 BETH LABSON FREEMAN
11 United States District Judge
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